## **REMARKS**

Claims 1 and 3-18 are pending in the present application. By this reply, claim 2 has been canceled and new claims 11-18 have been added. Claims 1, 5 and 9 are independent claims.

The specification has been amended to correct minor informalities and to clarify the invention according to US practice. These modifications do not add any new matter to the disclosure.

## 35 USC §102 and §103 Rejections

Claims 1, 4 and 9 have been rejected under 35 USC 102(b) as being anticipated by Mizumoto et al. (U.S. Patent 5,351,226). Claims 5-8 have been rejected under 35 USC §102(b) as being anticipated by Satoh et al. (U.S. Patent 5,903,531). Claims 2 and 3 have been rejected under 35 USC 103(a) as being unpatentable over Mizumoto et al. in view of Satoh et al. These rejections, in so far as pertains to the presently pending claims, are respectfully traversed.

The Examiner correctly acknowledges that Mizumoto et al. does not teach the feature of sampling the focus error signal at constant intervals and calculating the sample values, and using the calculated value to judge the existence of an optical disk. To overcome this deficiency, the Examiner further relies on Satoh et al. The preamplifier 23 shown in Fig. 5 of Satoh et al, however, sums an electronic signal of each cell of a photo detector (PD) to detect a focus error.

In clear contrast, Applicants' embodied invention samples the focus error signal at constant intervals and sums the sample values to determine the presence of an optical disk. In fact, Satoh's operation has nothing to do with judging the existence of a disk. Therefore, there is no motivation to combine Mizumoto et al. with Satoh et al. to render the claimed invention obvious.

Furthermore, even if the references are combinable, assuming *arguendo,* the combination of references would still fail to teach or suggest, *inter alia* "the value of focus error is obtained by sampling said focus error signal at constant intervals and calculating the sampled values; and (c) judging the existence of an optical disk depending upon a magnitude of the detected value of focus error" as recited in independent claim 1; "sampling said focus error signal at constant intervals and calculating the sample values; and (c) judging the existence of an optical disk depending upon the calculated value" as recited in independent claim 5; and "sampling said focus error signal at constant intervals and calculating the sampled values; and judging the existence of an optical disk depending upon the magnitude of the focus error signal" as recited in independent claim 9.

Accordingly, independent claims 1, 5 and 9 and their dependent claims (due to dependency) are patentable over the applied prior art, and reconsideration and withdrawal of the rejections based on these reasons are respectfully requested.
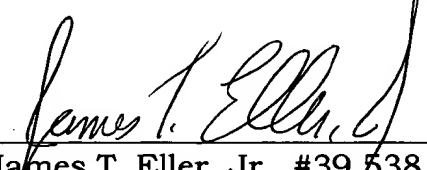
## Conclusion

For the foregoing reasons and in view of the above clarifying amendments, Applicant(s) respectfully requests the Examiner to reconsider and withdraw all of the objections and rejections of record, and earnestly solicits an early issuance of a Notice of Allowance.

Should there be any outstanding matters which need to be resolved in the present application, the Examiner is respectfully requested to contact Esther H. Chong (Registration No. 40,953) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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2950-0176P

Attachment: New Abstract of the Disclosure

## Abstract of the Disclosure

A method for checking the existence of an optical disk using a focusing signal is provided. The method in accordance with the present invention prevents misjudgement of the existence of an optical disk which is caused by noise contained in a focus error signal or by the low reflection ratio of a disk.